

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Gerd Hofmann et al.	Art Unit :	2833
Serial No. :	10/518,907	Examiner :	Felix O. Figueroa
Filed :	October 21, 2005	Conf. No. :	5392
Title :	BRANCHING DEVICE FOR AN ELECTRIC LINE		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR REFUND

On February 2, 2009, a fee in the amount of \$2,350 was charged to Fish & Richardson's Deposit Account No. 06-1050 after filing of a supplemental appeal brief.

The supplemental appeal was filed in anticipation of Notice of Noncompliance which was expected to be mailed shortly, but seems to have been incorrectly considered a response to a different Notice which was never actually mailed. The fee charged seems to be for an extension according to the date of the Notice which was never actually mailed.

Upon a routine check of PAIR, a Notice of non-compliant brief was found in the image file wrapper. Although the Notice listed a mailing date of July 9, 2008, the Notice does not appear to have actually been mailed. Specifically, the status of the application had not been changed from "Notice of Appeal filed," the transaction history does not include an entry of Mail Notice – Defect Appeal Brief, and such a Notice has not been received by the appellants or their representative. In a telephone interview of December 22, 2008, Patent Appeals Specialist Reginald Tyson acknowledged this issue and agreed to prepare a new Notice to be mailed shortly, to which applicant should respond. *See* Interview Summary of December 22, 2008. In a further conversation on January 6, 2009, the Patent Appeals Specialist again indicated that a new Notification was to be mailed shortly.

January 9, 2009 marked six months from the date of the Notification which was not actually mailed. To avoid an unwarranted abandonment, appellants preemptively responded on that date to the Notification to be mailed according to Patent Appeals Specialist Reginald Tyson.

Upon this filing, the USPTO charged a fee of \$2,350 to Fish & Richardson's Deposit Account No. 06-1050. This charge is improper as the supplemental brief was not in response to a Notification, since no notification had in fact been mailed.

Applicant : Gerd Hofmann et al.
Serial No. : 10/518,907
Filed : October 21, 2005
Page : 2 of 2

Attorney's Docket No.: 08215-0580US1 / CEA-
026565-PCT

During a phone call on March 18, 2009, Patent Appeals Specialist Reginald Tyson reiterated his previous agreement regarding the erroneously entered Notification as noted in the Interview Summary of December 22, 2008. Specialist Tyson also agreed that the fee was improperly collected and suggested that applicant file for a refund. Finally, specialist Tyson indicated that Palm showed the Proper Notification was sent for scanning three times but somehow had never actually been mailed.

Applicants respectfully request that the overcharge amount be refunded to Fish & Richardson's Deposit Account No. 06-1050 as a credit.

Respectfully submitted,

Date: March 23, 2009

/Gabriel D. Olander/
Gabriel D. Olander
Reg. No. 59,185

Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500
Telephone: (202) 783-5070
Facsimile: (877) 769-7945

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TRANSMITTAL LETTER REGARDING EXTENSIONS FEES

Upon a routine check of PAIR, a Notification of non-compliance was found in the image file wrapper. Although the Notification lists a mailing date of July 9, 2008, the Notification does not appear to have actually been mailed. Specifically, the status of the application has not been changed from "Notice of Appeal filed," the transaction history does not include an entry of Mail Notification – Defect Appeal Brief, the status date was December 6, 2008, and such a Notification has not been received by appellants or their representative.

The Patent Appeals Specialist indicated that the Notification appeared to have been erroneously entered into the system without being mailed, and that a proper Notification will be sent shortly. *See* Applicant Interview Summary of December 22, 2008. Upon a further conversation on January 6, 2009, the Patent Appeals Specialist indicated that a new Notification was to be mailed. To avoid confusion or accidental abandonment, appellants hereby preemptively respond to the Notification to be mailed (and within six months of the date of the non-mailed Notification found on PAIR). Accordingly, appellants understand this response to be timely and to not require fees.

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Serial No. : 10/518,907
Filed : October 21, 2005
Page : 2 of 2

Attorney's Docket No.: 08215-0580US1 / CEA-
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The Director is hereby authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required by this paper to Deposit Account No. 06-1050. The Director also is hereby authorized to apply any additional fees or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: January 9, 2009

/Gabriel D. Olander/
Gabriel Olander
Reg. No. 59185

Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500
Telephone: (202) 783-5070
Facsimile: (877) 769-7945